

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

1. DEBORA K. BALFOUR, Plaintiff, vs. 1. CARNIVAL CRUISE LINE, 2. YET IDENTIFIED SUB-CONTRACTORS, SERVANTS AND EMPLOYEES, Defendants.	Civil Action No. <u>CIV-21-293-R</u> Removed from the District Court of Oklahoma County, Oklahoma Case No. CJ-2021-811
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NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1367, 1441 and 1446, Defendant Carnival Corporation, erroneously sued as Carnival Cruise Line, (“Carnival”) hereby removes this action from the District Court of Oklahoma County, Oklahoma, to the United States District Court for the Western District of Oklahoma, and states the following as grounds for removal:

1. This action is removable based on the Court's diversity jurisdiction under 28 U.S.C. §§ 1332, 1367 and 1441(b) because complete diversity of citizenship exists between Plaintiff and Defendants, and the amount-in-controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

2. Plaintiff Debora K. Balfour brought this lawsuit against Defendants in the District Court of Oklahoma County, Oklahoma, on February 25, 2021. Plaintiff purchased a cruise ticket from Carnival. Plaintiff alleges that, while on the cruise, she

participated in a horseback riding excursion, during which she was injured. Plaintiff asserts causes of action for breach of contract, negligence, and breach of fiduciary duty.

3. Carnival was served with the Petition and Summons on March 6, 2021.

I. Complete Diversity of Citizenship

4. According to the Petition, Plaintiff is a resident and citizen of Oklahoma.

5. Carnival is a Panamanian corporation with its principal place of business in Florida.

6. “Yet identified sub-contractors, servants, and employees” are fictitious names and their citizenship should be disregarded. 28 U.S.C. § 1441(b)(1).

7. Therefore, complete diversity of citizenship exists as required by 28 U.S.C. § 1332.

II. Amount in Controversy

8. The amount in controversy requirement is also met. Pursuant to 28 U.S.C. § 1446(c)(2)(B), removal is proper if the court finds, by a preponderance of the evidence, that the amount in controversy exceeds \$75,000, exclusive of interest and costs, as set forth in 28 U.S.C. § 1332(a).

9. Plaintiff’s Petition prays for “judgment in an amount in excess of the amount required for Federal jurisdiction pursuant to Section 1332 of Title 28 of the United States Code.” *See* Exhibit 1, Petition, at p. 4. Therefore, the amount in controversy requirement has been met.

III. Carnival Has Met the Procedural Requirements for Removal

10. Pursuant to 28 U.S.C. § 1441(a), removal from the District Court of Oklahoma County, Oklahoma to the Western District of Oklahoma is proper.

11. Fewer than 30 days have passed since Carnival was served with the Summons and Petition on March 6, 2021. *See* 28 U.S.C. § 1446(b)(1).

12. Pursuant to 28 U.S.C. § 1446(a) and LCvR 81.2, a copy of all documents filed and served in the state court matter are attached as Exhibits 1-2, and a copy of the state court docket sheet is attached as Exhibit 3.

13. No other currently named defendants have been served so no consent is required for removal. 28 U.S.C. § 1446(b).

14. Carnival will promptly file with the clerk of the District Court of Oklahoma County, Oklahoma, a copy of this Notice of Removal and will also promptly serve the Notice of Removal on the Plaintiff. *See* 28 U.S.C. § 1446(d).

15. Carnival reserves the right to amend or supplement this notice of removal.

16. By removing this action to this Court, Carnival does not waive any defenses, objections, or motions available under state or federal law.

WHEREFORE, defendant Carnival Corporation hereby removes this case from the District Court of Oklahoma County, Oklahoma, to the United States District Court for the Western District of Oklahoma.

Dated: April 2, 2021

Respectfully submitted,

/s/ G. Calvin Sharpe
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CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2021, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to all counsel of record.

I further certify that on April 2, 2021, the foregoing document was served via U.S. mail on the following:

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